



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 11, 2019

FILED BY ECF

The Honorable Alison J. Nathan
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Courtroom 1306
New York, New York 10007

Re: *United States v. Ali Sadr Hashemi Nejad*, 18 Cr. 224 (AJN)

Dear Judge Nathan:

The Government respectfully writes to note its opposition to one aspect of the defendant's proposed order, which was filed on December 9, 2019 at Docket Number 165 (the "Proposed Order").

The defendant's proposed order requests the return of property seized from the defendant's seven email accounts (the "Sadr Email Accounts"), *and* from two email accounts that do not belong to the defendant. These two email accounts belong to the defendant's business partner, Robert Klingensmith (the "Klingensmith Accounts"). Although the defendant's letter accompanying the Proposed Order states that the Government "agrees with the form of the proposed order," the Government was not aware that the defendant intended to seek the return of non-Sadr emails, such as the emails in the Klingensmith Accounts. The Government does not consent to their return. The defendant has not established that he has standing to seek the return (or suppression) of the Klingensmith Accounts, nor does the Government believe that he would be able to establish such standing. *See United States v. Mendlowitz*, 17 CR. 248 (VSB), 2019 WL 1017533, at *5 (S.D.N.Y. Mar. 2, 2019) (rejecting claim by the co-owner, president, and CEO of a company that he had a reasonable expectation of privacy over computers seized from the company, which were not located in his own office).

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The Government therefore respectfully requests that the Court modify the first paragraph of the defendant's Proposed Order to remove reference to the Klingensmith Accounts.

Respectfully submitted,

GEOFFREY S. BERMAN

United States Attorney

By: /s/
Jane Kim / Michael Krouse / Stephanie Lake
Assistant United States Attorneys
Garrett Lynch
Special Assistant United States Attorney
(212) 637-2038 / 2279 / 1066

cc: Defense Counsel (by ECF)